IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.429 of 2005

Between:

1 T. Sravan Kumar, S/o. Late Kailasam,
R/o. H.No.8-11-129 &130, Konduruvari Veedhi, \J.P.N. Road,

Warangal.
2 C.H. Bhaskar Lingam, S/o. Venkataiah,
R/o. H.No.8-11-135, Konduruvari Veedhi, J.P.N. Road, Warangal.
3 T. Veera Prasad, S/o. Shankaraiah,
r/o. H.No.8-11-131, Konduruvari Veedhi, J.P.N. Road, Warangal.

..... PETITIONERS

AND

1 The Commissioner, Warangal Municipal Corporation, Warangal.
2 The City Planner, Town Planning Department, Warangal Municipal

Corporation, Warangal.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue writ, order or direction more specially one in the nature of writ of Mandamus by declaring the impugned action of the respondents to demolish the structures of the petitioners buildings bearing Door No.8-11-129 & 130, 8-11-135 and 8-11-131 respectively situated at Konduruvari Veedhi, JPN Road, Warangal without following due process of law as illegal arbitrary void abinitio and violation of Articles 14 and 21 of the Constitution of India besides vioaltive of due procedures of law and principles of natural justice and consequently direct the respondents respectively situated at J.p.n. road, warangal not to demolition of structure of petitioner buildings bearing Door No.8-11-129 & 130 and 8-11-135 and 8-11-131 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.A.RAVINDER

Counsel for the Respondent No.: K. Venugopal Reddy, SC for Warangal

Municipal Corporation.

The Court, at the admission stage, made the following :

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ORDER:

This writ petition is filed questioning the action of the respondents in trying to demolish the structures of the petitioners buildings bearing Door Nos.8-11-129 and 130, 8-11-135 and 8-11-131 respectively situated at Konduruvari Veedhi, JPN Road, Warangal for the alleged road widening without serving any notice on the petitioner and without following due process of law as illegal, arbitrary, void abinitio and violation of Articles 14 and 21 of the Constitution of India and consequently to direct the respondents and their subordinates all further proceedings including demolition of structures of petitioners buildings.

Heard the learned counsel for petitioner and the learned Standing Counsel appearing for respondent-Municipality and both of them agreed for disposal of the writ petition at the admission stage.

The learned Standing Counsel for Respondent-Municipality submits that in the event of Municipality taking up any demolition work, the authorities will scrupulously follow the guidelines laid down by a Division Bench of this Court in its judgment dated 3.2.1998 in W.P.No.21198 of 1997 which are extracted hereunder:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for

explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

Following the aforementioned judgment, the respondents are directed to follow the above guidelines scrupulously and not to demolish the existing structures without issuing any notice and without following the above guidelines.

This writ petition is accordingly disposed of. No costs.

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(N.V. RAMANA, J)

Date: 20.01.2005

Nsr

To

1 The Commissioner, Warangal Municipal Corporation, Warangal.
2 The City Planner, Town Planning Department, Warangal Municipal

Corporation, Warangal.

3 Two CD copies.